

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 EFREN SANTIAGO LEFRANC,

4 Plaintiff

Case No. 3:20-cv-00406-RFB-CLB

ORDER

5 v.

6 ELKO COUNTY et al.,

7 Defendants
8

9 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. §
10 1983 by a county inmate who later transferred into the custody of the Nevada Department
11 of Corrections (“NDOC”). On February 5, 2021, the Court issued an order dismissing the
12 complaint with leave to amend and directed Plaintiff to file an amended complaint within
13 30 days. (ECF No. 9 at 9). The Court eventually granted Plaintiff until May 21, 2021, to
14 file an amended complaint. (ECF Nos. 12, 14). The deadline has now expired, and
15 Plaintiff has not filed an amended complaint or otherwise responded to the Court’s last
16 order extending the deadline to May 21, 2021.

17 District courts have the inherent power to control their dockets and “[i]n the
18 exercise of that power, they may impose sanctions including, where appropriate . . .
19 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
20 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
21 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
22 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
23 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
24 1992) (affirming dismissal for failure to comply with an order requiring amendment of
25 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
26 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
27 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
28 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,

1 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
2 local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
4 a court order, or failure to comply with local rules, the court must consider several factors:
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
9 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously
11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
16 disposition of cases on their merits—is greatly outweighed by the factors in favor of
17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
18 the court's order will result in dismissal satisfies the "consideration of alternatives"
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
20 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint by May
21 21, 2021, expressly stated: "If Plaintiff chooses not to file an amended complaint, the
22 Court will recommend dismissal of this case with prejudice for failure to state a claim."
23 (ECF No. 14 at 1). Thus, Plaintiff had adequate warning that dismissal would result from
24 his noncompliance with the Court's order to file an amended complaint by the deadline.

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It is therefore ordered that this action is dismissed with prejudice based on Plaintiff's failure to file an amended complaint in compliance with this Court's February 5, 2021 and April 12, 2021, orders and for failure to state a claim.

It is further ordered that the Clerk of Court will close this case and enter judgment accordingly.

DATED THIS 3rd day of June 2021.


RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE